IMEMORANDAMU MAQONDANA NOMTHETHOSIVIVINYWA WOKUCHIBIYELA UMTHETHO WEZEMISEBENZI KAHULUMENI, WEZI-2023

1. ISENDLALELO

1.1 UMthetho Wezemisebenzi Kahulumeni, wonyaka we-1994 (Isimemezelomthetho se-103 sonyaka we-1994) ("uMthethongqangi") wagcina ukuchitshiyelwa ngowezi-2007 ngoMthethosivivinywa Wokuchibiyela uMthetho Wezemisebenzi Kahulumeni, wezi-2007 (uMthetho ongunombolo 30 wezi-2007), ukwethula uhlelokuphatha olusha emkhakheni wezemisebenzi kahulumeni ngokuhambisana nezimompilo nemigomo eyisisekelo equkethwe kuMthethosisekelo WeRiphabhulikhi YaseNingizimu Afrika, wonyaka we-1996 ("uMthethosisekelo") kanye nokwethula ezinye izinguquko zomthetho eziqondene nomkhakha wezemisebenzi kahulumeni.

1.2 Kulandela izinguquko zenqubomgomo ezaqaliswa ngaphakathi kuhulumeni ngokusebenzisa uHlelo Lukazwelonke Lokuthuthukiswa Kwezwe lowe-2030 ("NDP"), nezinqumo zenkantolo ezahlukahlukene eziphathelene nomkhakha wezokuphathwa kukahulumeni kanye nezindaba ezihlonzwe wuMbiko Wekhomishani yaseNingizimu Afrika Yokulethwa Kwezinguquko Emthethweni maqondana nemithetho elawulwa wuMnyango Wezemisebenzi Kahulumeni Nokuphathwa Kwayo, sekube nesidingo sokuba kuchitshiyelwe uMthethongqangi.

1.3 UMthethosivivinywa Wokuchibiyela uMthetho Wezemisebenzi Kahulumeni, wezi-2023 ("uMthethosivivinywa") uhlose ukuchibiyela uMthethongqangi ukuze—

(a) kudluliselwe amandla okuphatha kwizinhloko zeminyango kodwa futhi kusenjalo kugcinwe amandla obuqhinga obukhethekile esezandleni zeziphathimandla ezinegunyakuphatha;

(b) kunezezelwe imisebenzi yoMqondisi-Jikelele weHhovisi likaMongameli ukuze ibandakanye imisebenzi eshiwo yi-NDP eqondene nenhloko ephethe ezemisebenzi kahulumeni;

(c) kucaciswe indima kaMongameli kanye noNdunankulu, ngokulandelana, njengeziphathimandla eziphethe izinhloko zeminyango;

(d) kulungiswe lokho okushiwo kwisigaba 31(3)*(c)*;

(e) kuchitshiyelwe isigaba 35 ukucacisa indima yeKhomishani Yezemisebenzi Kahulumeni ekuthatheni isinqumo ngezinqubokusebenza okumele zilandelwe maqondana nenqubo yangaphakathi yokufakwa kwezikhalazo;

(f) kubekwe imikhawulo kumalungelo ezombusazwe ezinhloko zeminyango kanye nezisebenzi ezisebenza ngqo ngaphansi kwezinhloko zeminyango;

(g) kuchitshiyelwe isigaba 38 ukuze kuhlinzekwe ngezindlela ezihlukile zokuthi iminyango ikwazi ukudonsa ngokusemthethweni emholweni wesisebenzi imali yeholo efakwe ngokweqile; futhi *(h)* kuchitshiyelwe isigaba 42A(3) ukucacisa incazelo yegama elithi "uNgqongqoshe".

2. IZINJONGO ZOMTHETHOSIVIVINYWA

Injongo enkulu yoMthethosivivinywa ukuhlinzekela ukudluliselwa kwamandla okuphatha kwizinhloko zeminyango; ukunezezela endimeni yoMqondisi-Jikelele weHhovisi likaMongameli ngenhloso yokweseka uMongameli; ukuhlinzeka ngendlela ehlukile yokubuyisa umholo nemihlomulo ekhokhwe ngekweqile; ukucacisa indima yeKhomishani Yezemisebenzi Kahulumeni maqondana nezikhalazo; kanye nokucacisa indima kaMongameli kanye noNdunankulu ekuqashweni kwezinhloko zeminyango kanye nasezigamekweni eziphathelene nomsebenzi.

3. ISIFINGQO SOMSHWANA NOMSHWANA WOMTHETHOSIVIVINYWA

3.1 Umshwana 1

3.1.1 Umshwana 1 woMthethosivivinywa uhlinzekela ukuthi kuchitshiyelwe incazelo "yesiphathimandla esinegunyakuphatha" kanye "nezinhloko zeminyango"

equkethwe kuMthethongqangi, futhi kwengezwe incazelo "yesikhundla sezepolitiki" ukuze lokhu kuhumusheke kalula.

3.1.2 Mayelana nencazelo "yesiphathimandla esinegunyakuphatha", uMthethosivivinywa uhlinzekela ukufakwa kwendinyana *(b)* entsha, ebalula ukuthi "*isiphathimandla esinegunyakuphatha*" *ngokuhlobene nenhloko yomnyango kazwelonke noma uhlaka oluyingxenye kahulumeni kazwelonke, sisho uMongameli futhi ngokuhlobene nenhloko yeHhovisi likaNdunankulu, umnyango wesifundazwe noma uhlaka oluyingxenye kahulumeni wesifundazwe, sisho uNdunankulu*". Isigaba 85(1) no-(2) soMthethosisekelo sibalula ukuthi igunyakuphatha leRiphabhulikhi lisemahlombe kaMongameli futhi uMongameli usebenzisa igunyakuphatha ngokuhlanganyela namanye amalungu eKhabhinethi. Isichibiyelo esihlongozwayo sihambelana nenjongo yenqubomgomo, ehlose ukucacisa indima kaMongameli njengesiphathimandla esinegunyakuphatha phezu kwezinhloko zeminyango.

3.2 **Umshwana 2**

3.2.1 Umshwana 2 woMthethosivivinywa uhlose ukuthatha indawo yesigaba 3(7) soMthethongqangi, esilawula amandla nezibopho zesiphathimandla esinegunyakuphatha. Isigaba 3(7) soMthethongqangi sahlelwa kabusha ukuze sihlinzeke ngamandla anobuqhinga obukhethekile kwisiphathimandla esinegunyakuphatha futhi kususwe amandla okulawula kwisiphathimandla esinengunyakuphatha ukuze sikwazi ukugxila ekuhlinzekeni ngesiqondiso samasu nenqubomgomo. Izindlelakulinganisa (*checks and balances*) ezidingekayo zihlinzekiwe maqondana nokuhlukaniswa nokwabiwa kwamandla phakathi kwesiphathimandla esinegunyakuphatha nenhloko yomnyango ukuze kuqinisekiswe ukuphendula ngendlela efanele.

3.2.2 Umshwana 2 uphinde futhi uhlinzeke isiphathimandla esinegunyakuphatha ngamandla okungenelela uma kwenzeka inhloko yomnyango ihluleka noma yenqaba ukusebenzisa amandla ayo noma ukwenza lokho okuyisibopho sayo ngokoMthetho. Lesi simiselo sibalulekile njengoba njengamanje inhloko yomnyango isebenzisa amandla ayo okulawula ewanikezwe yisiphathimandla esinegunyakuphatha, okungenzeka siwahoxise lawo mandla isiphathimandla esinegunyakuphatha uma kwenzeka inhloko ihluleka noma yenqaba ukusebenzisa amandla athile noma ukwenza lokho okuyizibopho ezithile ethweswe zona. Ukudluliswa kwamandla okulawula esuka kwisiphathimandla esinegunyakuphatha asiwe kwinhloko yomnyango kusho ukuthi isiphathimandla esinegunyakuphatha ngeke sisakwazi ukuwahoxisa lawo mandla adlulisiwe ngalokho-ke lo mshwana udinga ukuthi kube nenqubo ezovumela ukuthi isiphathimandla esinegunyakuphatha singenelele lapho kunesizathu esizwakalayo salokho.

3.3 **Umshwana 3**

Umshwana 3 woMthethosivivinywa uphakamisa ukuthi kuchitshiyelwe izimiselo zesigaba 5 soMthethongqangi ngokuthi kususwe isigaba 3(8) soMthethongqangi siyofakwa kwisigaba 5(9) esisha. Lesi simiselo siyachitshiyelwa ukuze sibandakanye inhloko yomnyango futhi sihlinzekele ukuthi bobabili inhloko yomnyango kanye nesiphathimandla esinegunyakuphatha bakwazi ukubhekana nanoma yiluphi udaba oluphathelene noma oluqubuka ekuqashweni kwabasebenzi noma kwizimokusebenza zomuntu owayeqashwe emkhakheni wezemisebenzi kahulumeni.

3.4 **Umshwana 4**

3.4.1 Umshwana 4 woMthethosivivinywa uhlose ukuchibiyela isigaba 7(3) soMthethongqangi ukuhlinzekela ukudluliswa kwamandla okulawula adluliselwe kwizinhloko zeminyango kazwelonke, izinhloko zeminyango yezifundazwe kanye

nezinhloko zezinhlaka eziyingxenye kahulumeni. Izichibiyelo zesigaba 7(3) zihlinzekela ukuthi inhloko yomnyango—

(a) ibike kwisiphathimandla esinegunyakuphatha noma nini lapho kudingekile;

(b) ilekelele isiphathimandla esinegunyakuphatha ekuqinisekiseni ukuphendula ngendlela efanele nokufezwa kwemisebenzi nezibopho zesiphathimandla esinegunyakuphatha ngokuhambisana nalokho okushiwo kwisigaba 92 soMthethosisekelo; futhi *(c)* kuqaliswe ukusebenza kohlelo lwamasu okusebenza.

3.4.2 Ngaphezu kwalokho, umshwana 4 woMthethosivivinywa uhlose ukuchibiyela isigaba 7 soMthethongqangi ukuhlinzekela ukuthi imisebenzi eyengeziwe yoMqondisi-Jikelele weHhovisi likaMongameli ihambelane nenjongo ye-NDP yokwakha inhloko ezolawula umkhakha wezemisebenzi kahulumeni abazobika kuyona abaQondisi-Jikelele mayelana nezindaba zokuqhutshwa komsebenzi wansukuzonke, ukuhleleka kwezikhungo kanye nokuphathwa kwazo.

3.5 **Umshwana 5**

Umshwana 5 woMthethosivivinywa uhlose ukuchibiyela isigaba 9 soMthethongqangi ngenhloso yokuhlinzeka inhloko ngegunya lokuqoka abantu emnyangweni. Ukudluliswa kwaleli gunya kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.6 **Umshwana 6**

Umshwana 6 woMthethosivivinywa uhlose ukuchibiyela isigaba 13 soMthethongqangi ngenhloso yokuvumela inhloko yomnyango ukuthi iqashe isisebenzi ngaphansi kwesikhathikuvivinywa esinqunyiwe. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.7 **Umshwana 7**

Umshwana 7 woMthethosivivinywa uhlose ukuchibiyela isigaba 14 soMthethongqangi ukuhlinzeka inhloko yomnyango ngegunya lokususa abasebenzi ophikweni abasebenza kulona ngaphakathi emnyangweni bathunyelwe kolunye kanye negunya lokubathumela kweminye iminyango.

3.8 **Umshwana 8**

Umshwana 8 woMthethosivivinywa uhlose ukuchibiyela isigaba 14A soMthethongqangi ukuhlinzekela ukuqhubeka kwenkontileka yomsebenzi lapho umuntu osevele esebenzela uphiko lombuso eqashwa ngokwesigaba 9.

3.9 **Umshwana 9**

3.9.1 Umshwana 9 woMthethosivivinywa uhlose ukuchibiyela isigaba 16 soMthethongqangi, esimayelana nokuthatha umhlalaphansi kanye nokugcinwa kwabasebenzi ukuze baqhubeke basebenze. Kuphakanyiswa ukuthi esikhundleni setemu elithi "isikhulu" kufakwe itemu elithi "isisebenzi".

3.9.2 Ngaphezu kwalokho, isichibiyelo esihlongozwayo sihlose ukuhlinzeka inhloko yomnyango ngamandla okugunyaza isisebenzi ukuthi sithathe umhlalaphansi ngaphambi kokufinyelela eminyakeni engama-60 ubudala. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.10 **Umshwana 10**

Umshwana 10 woMthethosivivinywa uhlose ukuchibiyela isigaba 16B soMthethongqangi ngenhloso yokwenqabela inhloko yomnyango ukuthi ivume ukwamukela isaziso sesikhathi esifushane kunesejwayelekile sokwesula emsebenzini, ezimweni lapho isisebenzi sifuna ukwesula emsebenzini emuva kokunikezwa isaziso sokuthi sizobanjelwa isigcawu sokuqondiswa ubugwegwe. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.11 **Umshwana 11**

Umshwana 11 woMthethosivivinywa uhlose ukuchibiyela isigaba 17 soMthethongqangi ukuhlinzeka inhloko yomnyango ngamandla okuxosha isisebenzi emsebenzini. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.12 **Umshwana 12**

Umshwana 12 woMthethosivivinywa uhlose ukuchibiyela isigaba 30 soMthethongqangi ngenhloso yokuyalela ukuthi asikho isisebenzi esivumelekile ukwenza umsebenzi okhokhelwayo ngaphandle komnyango esiqashwe kuwona, futhi lokho singakwenza kuphela emuva kokuthola imvume yenhloko yomnyango. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.13 **Umshwana 13**

3.13.1 Umshwana 13 woMthethosivivinywa uhlose ukuchibiyela isigaba 31 soMthethongqangi ukuvumela inhloko yomnyango, ezimweni ezikhethekile, ukuthi igunyaze ukuthi kukhokhelwe isisebenzi kwingenisomali yomnyango isamba semali elingana nomholo lowo ebesizowuthola ngaphandle noma isibonelelo, ibhonasi noma inkokhelo noma ingxenye yayo. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.13.2 Umshwana 13 uhlose futhi ukwenza izichibiyelo kwisigaba 31(3) ukuze kufakelwe izibuko naleyo miqondomsuka echaziwe kakade futhi kulungiswe lokho okuthiwa "yisigaba 30*(b)*".

3.14 **Umshwana 14**

Umshwana 14 woMthethosivivinywa uhlose ukuchibiyela isigaba 32 soMthethongqangi uvumele ukuthi—

(a) inhloko yomnyango iqashe ngqo abasebenzi abazokwenza eminye imisebenzi okwesikhashana ngaphakathi emnyangweni; kanye

(b) nokuthi isiphathimandla esinegunyakuphatha siyalele inhloko yomnyango ukuthi yenze eminye imisebenzi okwesikhashana ngaphakathi emnyangweni;

(c) inhloko yomnyango noma isisebenzi esiqashwe esikhundleni esithile baqashe umuntu ozobamba leso sikhundla okwesikhashana emnyangweni ofanelekile; futhi

(d) isiphathimandla esinegunyakuphatha siqoke isisebenzi esizobamba njengenhloko yomnyango emuva kokubonisana noMongameli.

3.15 **Umshwana 15**

Umshwana 15 woMthethosivivinywa uhlose ukuchibiyela isigaba 35(5) soMthethongqangi ukuyalela ukuthi uNgqongqoshe Wezemisebenzi Kahulumeni Nokuphathwa Kwayo nguyena ozobeka inqubo ezosetshenziswa lapho abasebenzi bedlulisa izikhalazo ngaphakathi emnyangweni (okusho, inqubo yangaphakathi).

3.16 **Umshwana 16**

Umshwana 16 woMthethosivivinywa uhlose ukufaka isigaba 36A kuMthethongqangi ukuvimbela ukuthi inhloko yomnyango kanye nesisebenzi esibika ngqo kwinhloko yomnyango babambe isikhundla sezepolitiki. Itemu elithi "isikhundla sezepolitiki" lichazwe ngendlela ezokwenza ukuthi libonise izigaba zokuthathwa kwezinqumo zamaqembu ezepolitiki. Lesi sichibiyelo asiwathinti amanye amalungelo ezepolitiki ezinhloko zeminyango kanye nabasebenzi ababika ngqo kwinhloko yomnyango futhi bazolokhu bevumelekile ukuthokozela kanye nokusebenzisa lawo malungelo ngokukhululeka. Inhloso yalokhu kuvinjelwa kwenhloko yomnyango kanye nesisebenzi esibika ngqo kwinhloko yomnyango ukubamba isikhundla eqenjini lezepolitiki wukuqinisekisa ukuthi kuhlukaniswa ngokucacile phakathi komsebenzi wezepolitiki nomsebenzi wokulawula kanye nezibopho nemisebenzi yezinhloko zeminyango kanye namandla okuthonya abangaba nawo emnyangweni abasebenzi ababika kwinhloko yomnyango. Lesi simiselo siqondene nezinhloko zeminyango kuphela kanye nezisebenzi ezibika ngqo kwizinhloko zeminyango kanye nezisebenzi zomnyango kuphela, njengoba lezi zinhloko kuyizona ezithatha izinqubo eziphathelene nokuphatha.

3.17 **Umshwana 17**

Umshwana 17 woMthethosivivinywa uhlose ukuchibiyela isigaba 37 soMthethongqangi ngenhloso yokuvumela inhloko yomnyango, ngokuvunyelwa ngumthethonqubo futhi ngokwezinga elinqunyiwe, ukuthi inikeze isisebenzi imiholo engaphezulu kwesamba esiyisisekelo sezinga lomholo ofanelekile wesigaba somholo oqondene naso, futhi ngenhloso yokuvumela inhloko yomnyango ukuthi inikeze ngokukhethekile isisebenzi umholo ngaphambi kwesikhathi esinqunyiwe somholo okuwumholo osesigabeni somholo oqondene nesisebenzi leso, futhi ngenhloso yokuvumela inhloko yomnyango ukuthi inikeze isisebenzi umholo noma omunye umvuzo ngokwesigaba somholo esiphakeme kunesigaba somholo waso ojwayelekile uma isisebenzi leso sinekhono elimangazayo nelikhethekile futhi uma sineziqu zemfundo ezikhethekile. Ukudluliswa kwalawa mandla kwenzelwa ukuqinisekisa ukuhambelana okuhle kwesibopho sezimali kanye nemisebenzi eqhutshwa wuphiko olwengamele ezabasebenzi, okuzokhulula isiphathimandla esinegunyakuphatha ukuze sigxile ekuhlinzekeni ngesiqondiso samasu nenqubomgomo.

3.18 **Umshwana 18**

Umshwana 18 woMthethosivivinywa uhlose ukuchibiyela isigaba 38(2) soMthethongqangi, esiphathelene nokubuyiswa komholo onikezwe isisebenzi ngephutha. Lesi simiselo samenyezelwa yiNkantolo YoMthethosisekelo njengesingahambisani nomthethosisekelo ecaleni le-*Public Servants Association obo Ubogu v Head of the Department of Health, Gauteng and Others* 2018 (2) BCLR 184 (CC). Isibophezelo sihlose ukwenza lokhu kuhambelane kahle noMthetho Wezimo Eziyisisekelo Zokuqashwa, wonyaka we-1997 (uMthetho wama-75 wonyaka we-1997), futhi sisungula siphinde siqalise ukusebenza kwezindlela zokuqinisekisa ukuthi amalungelo abasebenzi awabukelwa phansi.

3.19 **Umshwana 19**

Umshwana 19 woMthethosivivinywa uhlose ukuchibiyela isigaba 42A(3)*(a)* soMthethongqangi ngokuphathelene namandla kaMongameli okudlulisela amandla kwesinye isiphathimandla esiqokwe nguyena maqondana nezindaba ezihlobene nokuqashwa kanye nezigameko ezimayelana nomsebenzi eziphathelene nezinhloko

zeminyango. Lesi sigaba kuphakanyiswa ukuthi sichitshiyelwe ukuze sithathe indawo yengxenye ekhuluma "ngePhini likaMongameli" kanye "noNgqongqoshe" kuMthethongqangi esikhundleni salokhu kufakwe "ilungu leKhabhinethi".

3.20 **Umshwana 20**

Umshwana 20 woMthethosivivinywa uhlinzekela isihloko esifushane soMthethosivivinywa, esizosetshenziswa uma usuphasisiwe waba ngumthetho, okunguMthetho Wokuchibiyela uMthetho Wezemisebenzi Kahulumeni, wezi-2023.

4. IMINYANGO/IZINHLANGANO/ABANTU OKUBONISWANE NABO

Iminyango kazwelonke neyezifundazwe, izinyunyana zabasebenzi, i-NEDLAC kanye nomphakathi wonkana.

5. INQUBO YASEPHALAMENDE

5.1 UMthethosisekelo wehlukanisa phakathi kwemikhakha emine yeMithethosivivinywa, ngale ndlela elandelayo: Imithethosivivinywa echibiyela uMthethosisekelo (isigaba 74); iMithethosivivinywa Ejwayelekile engazithinti izifundazwe (isigaba 75); iMithethosivivinywa Ejwayelekile ethinta izifundazwe (isigaba 76); kanye neMithethosivivinywa Yezimali (isigaba 77). UMthethosivivinywa kumele uhlukaniswe ngendlela efanele futhi ufakwe emkhakheni ofanelekile, ngaphandle kwalokho uyothathwa njengoMthethosivivinywa ophambene noMthethosisekelo.

5.2 UMthethosivivinywa kumele ucutshungulwe ngokuwuqhathanisa nezimiselo zoMthethosisekelo ezihlobene nokuhlukaniswa kweMithethosivivinywa ngendlela efanele futhi kumele uqhathaniswe nemikhakha yokushaywa kwemithetho esohlwini olukuSheduli 4 noSheduli 5 woMthethosisekelo. Ngokuhambisana nesigaba 76(3) soMthethosisekelo, uMthethosivivinywa kumele ucutshungulwe ngokulandela inqubokusebenza esungulwe ngokwesigaba 76(1) noma (2), uma ungaphansi komkhakha wokushaywa komthetho osohlwini olukuSheduli 4 woMthethosisekelo, noma inqubokusebenza ehlinzekela umthetho oshiwo kwisigaba 65(2), isigaba 163, isigaba 182, isigaba 195(3) kanye (4), nesigaba 196 nesigaba 197.

5.3 UMthethosivivinywa uqondene nezindaba ezihlobene nomkhakha wezemisebenzi kahulumeni, njengoba kushiwo kwisigaba 197 soMthethosisekelo, okuyizindaba okukhulunywa ngazo kwisigaba 76(3)*(f)* soMthethosisekelo.

5.4 IHhovisi Lomeluleki Oyinhloko Wezomthetho Wombuso kanye noMnyango Wezemisebenzi Kahulumeni Nokuphathwa Kwayo banombono wokuthi lo Mthethosivivinywa kumele ucutshungulwe ngokuhambisana nenqubokusebenza ebekwe ngokucacile kwisigaba 76 soMthethosisekelo ngoba uMthethosivivinywa uphathelene nezindaba ezihlobene nomkhakha wezemisebenzi kahulumeni, njengoba kushiwo kwisigaba 197 soMthethosisekelo.

5.5 IHhovisi Lomeluleki Oyinhloko Wezomthetho Wombuso futhi linombono wokuthi akudingekile ukuthi uMthethosivivinywa udluliselwe eNdlini Yabaholi Bendabuko Nabohlanga lwama-Khoi-San ngokwesigaba 39 soMthetho Wobuholi Bendabuko Nohlanga lwama-Khoi-San, wezi-2019 (uMthetho ongunombolo 3 wezi-2019), njengoba ungaqukethe izimiselo eziphathelene nemiphakathi yendabuko noma yama-Khoi-San noma eziphathelene nemithetho yesintu noma amasiko emiphakathi yendabuko noma yama-Khoi-San, kanye nanoma yiluphi udaba olushiwo kwisigaba 154(2) soMthethosisekelo.

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